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194

File No. B. Option in Cotton/43

Legal Deptt.

B BRANCH

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Subject:

A Bill to amend the Bombay options in Cotton Prohibition Act 1939

(Bom ~~XVIII~~ of 1943)

C/1
C/E

Secretary not under file

File No. B. Option in Cotton/44

Gen. 194 e.

(Bom XVIII of 1943)

505

Office of the R.L.A.

2 The draft Bill at p. 19 ante, as slightly amended, is in order and would achieve the object.

2. The subject-matter of the Bill falls under entry 10 of the Concurrent Legislative List in the 7th Schedule to the Government of India Act, 1935.

3. Clause 2 of the proposed Bill gives power of Government to make by-laws or any addition to or variation or rescission of by laws providing for the regulation and control of transactions entered into previously to and subsisting at the date of the making of the by-laws, or of the addition, variation or rescission. The clause further provides that all rights and obligations in respect of the transactions shall be determined accordingly. In effect the clause gives power to government to make by laws which may validate any contracts which are at present void under section 23 of the Indian Contract Act. or otherwise affect rights and liabilities under subsisting contracts. Such a clause would be repugnant to the provisions of the Indian Contract Act, 1872, which is an existing Indian Law relating to entry 10 in the Concurrent Legislative List, It will therefore to be necessary to reserve the Bill for the consideration of the Governor General with reference to para (2)of the Proclamation and section 107 (2)of the Government of India Act, 1935.

4. F.D. will no doubt add the necessary Statement to the Bill.

Sd/-P.N.M.
12-11

Remembrancer of Legal Affairs.

M.K.D.
16-7-56
C.4

U.R. to F.D.No. 8398, dated the 13th November 1945.

21/7 24 21/7

No.9469
Legal Department.
Bombay Castle, 27th December 1943.

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Options in Cotton prohibitionAct,1939.

With reference to your Memorandum No.201(90) dated the 21st December 1943, addressed to the Fiance Department, on the above subject, I am directed to forward herewith a copy of the Bill to amend the Bombay Options in Cotton Prohibition Act, 1939, prepared by His Excellency the Governor under paragraph (2)of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. None of the provisionsof the Bom Bill affects any special responsibility of the Governor under section 52(1)of the Government of India Act, 1935,or falls within the purview of clause (a),(b),(c)or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject-matter of the Bill falls under entry 10 of the Concurrenct LegislativeList in the 7th Schedule to the Government of India Act, 1935. Clause 2 of the proposed Bill gives power to Government to make by-laws or any addition to or variation or respcission of by-laws providing for the regulation and control of transactions entered into previously to and subsisting at the date of the making of the by-laws, or of the additions, variation or rescission. The clause further provides that all rights and oblications in respect of the transactions shall be determined accordingly. In effect the clause gives power to Government to make by-laws which may validate any contracts which are at present void under section 23 of the Indian Contract Act or otherwise affect rights and liabilities under subsisting contracts. Such a clause would be repugnant to the provision

provisions of the Indian Contract Act,1872,which is an existing Indian law relating to entry 10 in the Concurrent Legislative List. It will therefore be necessary to reserve the Bill for the consideration of the Governor General with reference to para(2)of the proclamation and section 107(2)of the Government of India Act, 1935.

4. I also forward herewith six spare copies of the Bill, out of the which five copies are for transmission to the Secretary to the Governor General (Public).

Sd/.P.M.MOOS,
Secretary to the Government of
Bombay, Legal Department.

Through:

The Joint Secretary to the Government of Bombay,
Fiance Department.

M.R.D.
16-7-56
C.4

No.201(90)
Office of the Governor's Secretary,
Government House,
Bombay 19th January 1944.

From

D.Symington, Esquire, ICIE. ICS.
Secretary to the Governor of Bombay,

To.

The Secretary to Government,
Legal Department, Bombay,

Subject:- The Bombay Options in Cotton Prohibition (Amendment) Bill, 1943.

Sir,

With reference to your letter No.9469, dated the 27th December 1943, on the above subject, I am directed to forward herewith the copy of the Bombay Options in Cotton Prohibition(Amendment) Bill,1943, With His Excellency the Governor-General's assent signified thereon.

Your obedient servant,
Sd/-
for Secretary to the Governor of Bombay.

M.R.D.
16-7-56
C.4

Acts.
Publication of the Bombay Options Cotton Prohibition (Amendment) Act, 1943.

GOVERNMENT OF BOMBAY.
Legal Department.
Resulution No.590.
Bombay Castle, 21st January 1944.

Letter to the Secretary to the Governor, No.9469, dated the 27th December 1943.

Letter from the Secretary to the Governor.No.201(90) dated the 19th January 1944.

"With feference to your letter No.9469, dated the 27th December 1943, on the above subject. I am directed to forward herewiththe copy of the Bombay Options in cotton Prohibition (Amendment) Bill, 1943, with His Excellency the Governor-General's assent signfied thereon".

RESOLUTION:- The law should be published as Bombay ActNo.XVII of 1943, in the Bombay Government Gazette dated the 21st January 1944.

2. The Act should be translated in to Marathi, Gujarâti, Kannada and Hindustani(InUrdu and Devnagari Scripts) and the translations should be published in the Bombay Government Gagette.

3. A copy of the Act should be forwarded to the Finance Department.

By order of the Governorxof Bombay,

Sd/-
P.N.MOOS,
For(Secretary to Government.

To

The Manager, Government Central Press, Bombay(with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Dept),
The Finance Department,
*The Oriental Translator to Government) with a
The Secretary to the Bombay Legislative Council, } copy of the Act.
The Secretary to the Bombay Legislative Assembly))

*With five extra copies.

M.R.D.
16-7-56
C.4

STATEMENTS.

Section 3 of the Bombay Options in Cotton Prohibition Act,1939,empowers the Provincial Government to make, in regard to certain matter, new by-laws, or amendments in existing by laws, for a recognized cotton association. But a by-law or amendment so made cannot, as the Act now stands, be given effect to in respect of transactions outstanding at the time it is made. It is proposed to take power in this Act to enable Government to apply such by-laws or amendments retrospectively. The immediate occasion for the proposal is the need to validate certain contracts which happen technically to contravene one of the by-laws of the East India Cotton Association. Under this by-law the previous approval of the Government of Bombay is required in certain circumstances for the fixation of a date for the commencement of trading in new crop. The contracts were of a type which the Central Government specifically excluded, by notification, from the operation of the ban on forward trading in cotton, and were entered into onthe strength of the notification. By oversight, however, the requirements of the by-law relating to the date of commencement of trading were not fulfilled, and on account of this technical breach retrospective validation of the contracts has become necessary.

M.R.D.
16-7-56
C.4

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M.R.D.
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M.R.D.
16-7-56
C.4

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M.R.D.
16-8-56
C.4